

CR 83-174

STATE OF WISCONSIN)
) ss
DEPARTMENT OF EMPLOYMENT RELATIONS)

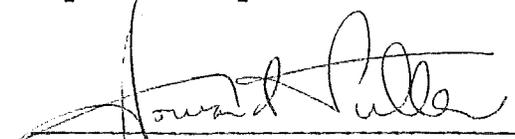
TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Howard Fuller, Secretary of the Department of Employment Relations, and custodian of the official records of said Department, do hereby certify that the annexed rules or repeal of rules relating to certain state classified civil service provisions were duly approved and adopted by this Department on January 16, 1984.

I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF,

I have hereunto set my hand
at 149 East Wilson Street in
the City of Madison, this 16th
day of January 1984.



HOWARD FULLER
SECRETARY

RECEIVED

JAN 16 1984
9:30 am
Revisor of Statutes
Bureau

3-1-84

ORDER OF THE SECRETARY

DEPARTMENT OF EMPLOYMENT RELATIONS, REPEALING AND CREATING RULES

Relating to Rules of the Secretary
of the Department of Employment Relations

Department of Employment Relations
149 E. Wilson St., Madison, WI 53707

Draft: 01/16/84

RECEIVED

JAN 16 1984

Revisor of Statutes
Bureau

RULE MAKING ORDER
(INTRODUCTORY CLAUSE)

To repeal chs. Pers 4, Pers 5, Pers 20, Pers 25 and Pers 31, and s. Pers 30.12;
and to create chs. ER 41 through ER 47, relating to the rules of the secretary
of the department of employment relations.

ANALYSIS PREPARED BY
THE DEPARTMENT OF EMPLOYMENT RELATIONS

ABOLITION OF CHAPTERS PERS 4, PERS 5, PERS 20, PERS
25 AND PERS 31, AND OF SECTION PERS 30.12.

Chapter 196, Laws of 1977, vested the authority for development of the compensation plan, the state training policy and program, the employe performance evaluation program, the minimum requirements for a grievance procedure, and the temporary interchange of employes program in the secretary, department of employment relations, rather than the administrator, division of personnel. Therefore, the secretary is acting to repeal chapters Pers 4 and 5, which defined certain compensation plan terms and provisions which are now contained in the compensation plan under s. 230.12(1), Stats.

In addition, the secretary acts to repeal chapters Pers 20, employe training and development, Pers 25, grievance procedure, and Pers 31, temporary interchange of employes, and section Pers 30.12, the performance evaluation section of the career executive chapter, and to create chapters ER 44, employe development and training, ER 45, employe performance evaluation, ER 46, grievance procedure, and ER 47, temporary interchange.

CREATION OF CHAPTERS ER 41 THROUGH 47

Chapter ER 41

Chapter ER 41 clarifies the force and effect of the rules of the secretary of the department of employment relations. Definitions of terms used in chapters ER 41 through ER 47 are either defined or referenced in this chapter. Definitions of terms used in specific chapters are defined in those chapters.

Chapter ER 42

This chapter sets forth the policy of the state relating to the development of flexible-time schedules and restructuring of positions to provide alternative work patterns which maximize the employment options available to existing and potential employes and maintain or increase agency efficiency and service to the public.

Alternative work patterns are defined as work schedules which differ from the standard work schedule for permanent or project employment, including but not limited to: part-time, shared time and flexible-time schedules which may result from position restructuring, the creation of additional part-time positions, or other work schedule changes.

Each agency is required under s. 230.215, Stats., to prepare a plan for the establishment of alternative work patterns and to report its progress under the plan to the secretary of the department of employment relations. The secretary shall review each agency's plan and report and, if necessary, provide recommendations to ensure the implementation of the state's policies. In addition, on an on-going basis, the secretary shall review and evaluate each agency's progress and make recommendations concerning procedures by which the agency may improve its efforts.

Chapter ER 43

This chapter is created under s. 230.04(9), Stats., to set forth the policy of the state relating to affirmative action and equal opportunity for all applicants for employment, employes in the classified service and employes in the unclassified service, except for elected state officials. It outlines the responsibilities of each person responsible for employment decisions to implement this policy.

This chapter identifies the minimum components which each agency's statutorily-required affirmative action and equal opportunity plan must include. These include: a policy statement; agency workforce analysis; agency employment policy and practice analysis; description of actions designed to implement the policy; evaluation of past performance in meeting the previous plan's goals; a self-monitoring system and timetable; and a policy promulgation plan.

This chapter provides that the secretary of the department of employment relations shall review all agency affirmative action and equal opportunity plans to approve those which meet the established standards and provide recommendations and technical assistance to agencies whose plans do not meet the standards. Included in this review process is an opportunity for the agency to review the secretary's initial findings and respond in writing prior to the final determination regarding the agency's compliance status, which shall be reported to the governor.

The secretary also has the authority to monitor the progress of agencies in meeting state affirmative action and equal opportunity goals.

Chapter ER 44

This chapter is created under s. 230.046(11), Stats., to set forth the policy of the state relating to employe development and training in order to develop maximum employe proficiency, enhance the achievement of affirmative action goals, and establish and maintain the highest standards of performance in the transaction of the state's business.

This chapter distinguishes between job-related, career-related, and personal development training and educational activities. It provides for the waiver of the statutorily-mandated basic supervisory development training when the supervisor or manager has had prior equivalent training. This chapter also provides for the secretary of the department of employment relations to delegate to an agency the authority for initiating training programs. In this regard, the secretary may authorize an on-site review of the agency's approved training programs.

In addition, the chapter identifies the purpose and nature of an understudy and an in-service training internship program, as well as the minimum standards for the refund of tuition, necessary fees and time off from work for each type of training and educational activity. Each agency is also required to establish a system of training program participation record-keeping.

Chapter ER 45

This chapter is created under s. 230.37(1), Stats., to define performance evaluation and to set forth the standards to be used by each state agency in evaluating the job performance of its employees. In compliance with this chapter, performance standards shall be established for each employe and a formal evaluation of performance, including discussions with the employe, conducted at least once every 12 months.

This chapter provides that each agency shall submit for the review and approval of the secretary of the department of employment relations a description of the agency's implementation and administration of a performance evaluation system which meets the standards. In addition, each agency shall identify the use and effect of the information contained in the performance evaluation review documents.

These rules also include performance standards to be applied in the evaluation of the job performance of probationary employees.

Chapter ER 46

This chapter is created under the general rule-making authority of the secretary of the department of employment relations in s. 230.04(5), Stats. It is a comprehensive set of rules defining the procedure available to nonrepresented state employes to handle grievances related to conditions of employment. These rules cover the rights of management, the procedure for filing a grievance, the steps and time limits affecting that filing and the retroactivity of settlements.

The rules also cover those matters in which the personnel commission becomes the final step arbiter in the grievance procedure under s. 230.45(1) (c), Stats. Grievants may proceed to the commission if they allege that the employer abused its discretion in applying the civil service statutes, the rules of the administrator, the rules of the secretary, or written agency policies.

In addition, this chapter includes a provision for waiving time limits upon the mutual agreement of the employer and the grievant. The rules also encourage informal discussion and settlement of grievances without the need for hearing.

Chapter ER 47

This chapter is created under s. 230.047(8), Stats., to promote the interchange of employes between and among government agencies and institutions of higher education to make optimal use of their skills and abilities in the service of the state. These rules require a written interchange agreement between the sending agency, the receiving agency and the employe which must be approved by the secretary before the interchange may begin. These rules define who is eligible for an interchange and the time period of an interchange.

In addition, this chapter identifies the specific provisions which must be included in an interchange agreement relating to the duties and responsibilities of the appointing authorities in the sending agency and in the receiving agency. The agreement must also cover such items as pay, employe benefits, travel expenses and maintenance allowances.

This chapter also provides that an employe on interchange may compete in promotional examinations as if the employe had not entered into the interchange agreement.

(STATEMENT OF STATUTORY AUTHORITY)

Pursuant to the authority vested in the secretary, Wisconsin department of employment relations by ss. 227.011, 230.04(5) and (11), 230.046(9) and (11), 230.047(8), 230.12(1) (a), 230.45(1) (c), and s. 227.014(2) (a), Stats., the secretary hereby repeals and creates rules interpreting and administering ss. 230.04, 230.046, 230.047, 230.12(1) (a), 230.215, 230.37(1), and 230.45(1) (c), Stats., as follows:

1 SECTION 1. Chapters ER 41 through ER 47 are created to read:

2 CHAPTER ER 41
3 FORCE AND EFFECT OF RULES AND DEFINITIONS

4 ER 41.01 Force and effect of rules ER 41.02 Definitions

5 ER 41.01 FORCE AND EFFECT OF RULES. Chapters ER 41 to 47 are promulgated
6 under general authority of s. 230.04 (5), Stats., and s. 227.014(2) (a), Stats.,
7 to apply specifically to provisions of ch. 230, Stats., except on matters
8 relating to the provisions of subch. II, for which responsibility is
9 specifically charged to the administrator of the division of merit recruitment
10 and selection. As provided under s. 230.01 (3), Stats., nothing in ch. 230,
11 Stats., or in chs. ER 41 to 47 shall be construed either to infringe upon or
12 supersede the rights guaranteed state employes under the provisions of subch. V
13 of ch. 111, Stats., the state employment labor relations act.

14 ER 41.02 DEFINITIONS. In addition to those terms defined under ss.
15 111.81 and 230.03, Stats., chs. ER-Pers 1 to 34, and as specified in chs.
16 ER 42 to 47, the following are definitions for terms used in chs. ER 42 to 47:

17 (1) "Full-time employment" means permanent or project employment
18 that requires the services of an employe for a minimum of 2088 hours on an
19 annual basis.

20 (2) "Part-time employment" means permanent or project employment that
21 requires the services of an employe for more than 600 hours, but less than 2088
22 hours on an annual basis.

1 CHAPTER ER 42

2 ALTERNATIVE WORK PATTERNS

3	ER 42.01	Policy	ER 42.05	Review of plans
4	ER 42.02	Definitions	ER 42.06	Monitoring and evaluation
5	ER 42.03	Alternative work patterns	ER 42.07	Request for information
6		plan		
7	ER 42.04	Plan components		

8 ER 42.01 POLICY. Recognizing the need to maximize the employment options
9 available to existing and potential state employes and to maintain or increase
10 agency efficiency and service to the public, it is the policy of the state to
11 provide alternative work patterns in a manner consistent with the needs of state
12 service.

13 ER 42.02 DEFINITIONS. In this chapter:

14 (1) "Alternative work patterns" means work schedules which differ from the
15 standard work schedule for full-time permanent or project employment, including but
16 not limited to: part-time, shared time and flexible-time schedules which may
17 result from position restructuring, the creation of additional part-time positions,
18 or other work schedule changes.

19 (2) "Flexible-time schedule" means a work schedule which includes
20 designated hours during which the employe may, with the approval of the
21 supervisor and under work unit plans approved by the appointing authority,
22 elect an alternative time of arrival for and departure from work. It may also
23 include required days or hours during which an employe subject to the work
24 schedule must be present for work.

25 (3) "Position restructuring" means regrouping the duties and
26 responsibilities of a position to allow for part-time employment, shared time, or
27 flexible-time work schedules.

1 (4) "Shared time" means coordinated permanent or project part-time
2 employment involving 2 or more persons sharing the same duties and
3 responsibilities of a budgeted position.

4 (5) "Standard work schedule" means the typical designation and duration of
5 work hours for a given position in an employing unit.

6 ER 42.03 ALTERNATIVE WORK PATTERNS PLAN. In accordance with the timetables
7 established by the secretary, each appointing authority shall prepare and file
8 with the secretary a biennial alternative work patterns plan that:

9 (1) Applies to all classified employes, except in those instances where
10 specific provisions are covered by a collective bargaining agreement under subch. V
11 of ch. 111;

12 (2) Provides policies and procedures to implement this state's alternative
13 work patterns policies under s. ER 42.01 and s. 230.215, Stats.; and

14 (3) Includes the minimum plan components described in s. ER 42.04.

15 ER 42.04 PLAN COMPONENTS. Each agency plan under s. ER 42.03 shall include
16 the following components:

17 (1) A policy statement which affirms the commitment of the appointing authority
18 to ensure that written requests of employes for alternative work patterns shall be
19 approved in accordance with the agency approved plan, state policy under s. ER
20 42.01 and s. 230.215, Stats., and standards established by the secretary.

21 (2) An analysis of employe interest in alternative work patterns,
22 including the extent to which the agency has been able to accommodate written
23 requests for alternative work patterns.

24 (3) Identification of state and agency policies and practices which impede
25 development or implementation of alternative work patterns policies or procedures.

1 (4) An update of policies initiated or actions taken which have affected
2 positions identified for alternative work patterns, including the restructuring
3 of positions and the rationale for that action.

4 (5) An evaluation of the agency's performance in implementing the
5 provisions and achievement of the goals of the previous plan.

6 (6) Appointment of an alternative work patterns coordinator within the
7 agency personnel office.

8 (7) Description of programs to inform all employees of the agency's
9 alternative work patterns policy statements and plan.

10 (8) Identification of a system for regularly monitoring the effectiveness
11 and progress of the program in meeting the plan objectives, including
12 identification of mechanisms for updating and modification of the program.

13 ER 42.05 REVIEW OF PLANS. The secretary shall review all agency
14 alternative work patterns plans, as follows:

15 (1) Approval of plans that meet standards established by the secretary and
16 notification of the appointing authority of such approval.

17 (2) Provision of written recommendations and rationale to the respective
18 agency for any plan which does not meet the established standards.

19 (3) Provision of technical assistance to assist the agency in achieving
20 compliance with the standards.

21 (4) Opportunity for the respective agency to review the secretary's
22 findings and respond in writing.

23 (5) Review and consideration of an agency's response to the initial
24 findings, resulting in a declaration of findings that the agency is either in
25 compliance or noncompliance under ss. ER 42.03 and 42.04.

26 (6) Recommendation of procedures designed to enable the agency to achieve
27 compliance with the standards.

1 ER 42.06 MONITORING AND EVALUATION. On an ongoing basis, the secretary
2 shall monitor' and evaluate each agency's progress toward alternative work
3 patterns goals and objectives in implementing the policy of the state and shall
4 make specific recommendations regarding methods through which the respective
5 agencies may improve their efforts.

6 ER 42.07 REQUEST FOR INFORMATION. Upon request of the secretary, the
7 appointing authority shall provide information concerning employes involved in
8 their alternative work patterns program. Confidentiality of information shall
9 be maintained by the secretary under state or federal law.

CHAPTER ER 43

AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY

ER 43.01	Policy	ER 43.05	Monitoring and compliance
ER 43.02	Definitions	ER 43.06	Request for information
ER 43.03	Plan components	ER 43.07	Reporting systems
ER 43.04	Review of plans	ER 43.08	Availability of AAIS information

ER 43.01 POLICY. It is the policy of this state to ensure equal opportunity without regard to age, race, creed or religion, color, handicap, sex, marital status, national origin or ancestry, political affiliation, arrest or conviction record, or sexual orientation. In furtherance of this policy, all persons responsible for employment decisions shall, within the scope of their assigned responsibilities:

(1) Exercise administrative authority and personal leadership to eradicate every form of discrimination from the agency's policies, practices and working conditions.

(2) Take affirmative action if there are substantial disparities between the proportion of members of racial or ethnic, gender, or handicapped groups in a classified civil service classification or in a similar functional group in the unclassified service, except for elected state officials, and the proportions of those groups in this state.

(3) Integrate equal opportunity and affirmative action concerns into all aspects of the agency structure under his or her control.

(4) Explore and implement personnel management procedures that may aid in the achievement of affirmative action goals.

1 ER 43.02 DEFINITIONS. In this chapter:

2 (1) "Affirmative action" means specific actions in employment which are
3 designed and taken for the purposes of ensuring equal opportunity and a balanced
4 work force and of eliminating present effects of past discrimination for
5 affirmative action groups.

6 (2) "Affirmative action groups" means American Indians and Alaskan
7 Natives, Asians and Pacific Islanders, Blacks, Hispanics, females, and
8 handicapped individuals.

9 (a) "American Indians and Alaskan Natives" means persons descended
0 from any of the original peoples of North America who maintain cultural
1 identification through tribal affiliation or community recognition.

2 (b) "Asians and Pacific Islanders" means persons descended from any
3 of the original peoples of the Far East, Southeast Asia, the Indian
4 Subcontinent, or the Pacific Islands.

5 (c) "Blacks" means persons descended from any of the Black racial
6 groups of Africa.

7 (d) "Handicapped individual" means an individual who:

8 1. Has a physical or mental impairment which makes achievement
9 unusually difficult or limits the capacity to work;

0 2. Has a record of such an impairment; or

1 3. Is perceived as having such an impairment.

2 (e) "Hispanics" means persons of Chicano, Mexican, Puerto Rican,
3 Cuban, Central American or South American culture or origin, regardless of race.

4 (3) "AAIS" means affirmative action information system.

5 (4) "Client" means any individual or organization receiving services or
6 financial assistance from an agency.

1 (5) "Discrimination" means unlawful actions or practices which constitute
2 unequal or different treatment of, or create an unequal or different effect on
3 an individual or group of people, on the basis of age, race, creed or religion,
4 color, handicap, sex, marital status, national origin or ancestry, political
5 affiliation, arrest or conviction record, or sexual orientation.

6 (6) "Equal opportunity" means the absence of discrimination in employment
7 or in provision of services to clients.

8 ER 43.03 PLAN COMPONENTS. Each agency shall have an affirmative action and
9 equal opportunity plan which shall include the following minimum components:

0 (1) A policy statement which affirms the commitment of the appointing
1 authority to ensure equal opportunity, freedom from discrimination, and
2 affirmative action in compliance with state policy.

3 (2) An analysis of the representation of affirmative action groups in the
4 agency workforce.

5 (3) Identification of any agency employment policies and practices which:

6 (a) Impede development or implementation of affirmative action or
7 equal opportunity policies or procedures; or

8 (b) Impede progress toward affirmative action and equal opportunity
9 goals.

0 (4) Description of actions as specified by the secretary, including
1 programmatic and numerical goals, timetables, and program implementation,
2 designed to ensure equal opportunity, eliminate the present effects of past
3 discrimination, achieve a balanced workforce, and ensure non-discrimination.

4 (5) Evaluation of agency performance in the achievement of the goals of
5 the previous plan.

1 (6) Identification of a system and timetable for regularly monitoring the
2 effectiveness and progress of the program in meeting the plan objectives,
3 including identification of mechanisms for modifying the program.

4 (7) Description of methods designed to inform all employees of the agency's
5 affirmative action and equal opportunity policy statements and plan.

6 ER 43.04 REVIEW OF PLANS. The secretary shall review all agency
7 affirmative action and equal opportunity plans for the purpose of:

8 (1) Approval of plans that meet standards established by the secretary,
9 notification of the appointing authority of such approval, and submission of
0 approved plans, with comments, to the governor.

1 (2) Provision of written recommendations and rationale to the respective
2 agency for any plan which does not meet the established standards.

3 (3) Provision of technical assistance to assist the agency in achieving
4 compliance with the standards.

5 (4) Opportunity for the respective agency to review the secretary's
6 findings and respond in writing.

7 (5) Review and consideration of an agency's response to the initial
8 findings, resulting in a declaration of findings that the agency is either in
9 compliance or noncompliance with s. ER 43.03.

0 (6) Report of a finding of noncompliance, with a copy of the agency
1 response, to the governor.

2 (7) If a state agency has previously developed an affirmative action plan
3 which complies with federal law, or, if an institution of the university of
4 Wisconsin System has previously developed an affirmative action plan which meets
5 standards established by the Board of Regents of the university of Wisconsin
6 System, the secretary shall review that plan for acceptability for plans
7 required under s. ER 43.03.

ER 43.05 MONITORING AND COMPLIANCE. On an ongoing basis, the secretary shall monitor and evaluate each agency's progress toward affirmative action and equal opportunity goals and objectives in implementing the policy of the state and shall make specific recommendations regarding methods through which the respective agencies may improve their efforts in providing equal opportunity to employes, applicants for employment and clients of the agency.

ER 43.06 REQUEST FOR INFORMATION. Upon request of the secretary, the appointing authority shall provide information concerning applicants, employes and clients. Confidentiality of information shall be maintained by the secretary as provided under state or federal law.

ER 43.07 REPORTING SYSTEMS. Appointing authorities shall comply with standards and procedures for reporting systems established by the secretary to acquire affirmative action information. If an agency has established reporting systems in compliance with federal law, such systems shall be reviewed by the secretary for acceptability.

ER 43.08 AVAILABILITY OF AAIS INFORMATION. Information on affirmative action groups contained in the AAIS is available to the public unless release of the information is prohibited by state or federal law.

1 CHAPTER ER 44

2 EMPLOYE DEVELOPMENT AND TRAINING

3	ER 44.01	Policy and purpose	ER 44.06	Tuition and fees refund program
4	ER 44.02	Definitions	ER 44.07	Records of training program
5	ER 44.03	Basic supervisory development		participation
6	ER 44.04	Understudy program	ER 44.08	Delegation of training
7	ER 44.05	In-service training intern-		
8		ship program		

9 ER 44.01 POLICY AND PURPOSE. To promote efficiency and economy in the
10 operation of state government, the state is committed to offering training
11 opportunities for employes at all levels to develop maximum employe proficiency,
12 to enhance the achievement of affirmative action goals, and to establish and
13 maintain the highest standards of performance in the transaction of the state's
14 business. Appointing authorities are responsible for identifying training
15 needs and making opportunities available for their employes in accordance with
16 the policy set forth in s. 230.046(1), Stats. Upon request of a state agency
17 or where cost efficiencies can be realized, the department will sponsor training
18 and other developmental programs designed to develop and maintain the skills,
19 knowledge and abilities of the state's work force.

20 ER 44.02 DEFINITIONS. In this chapter:

21 (1) "Career-related training and educational activities" means those
22 activities which are necessary for:

23 (a) The employe to progress through a classification series related
24 to the employe's current position; or

25 (b) The employe to advance to another position within a career path.

1 (2) "Formal training" means instructor-led structured training.

2 (3) "Job-related training and educational activities" means those
3 developmental activities to which the agency assigns an employe to:

4 (a) Develop, improve or update skills or knowledge which the agency
5 determines an employe needs to perform the duties of the employe's current
6 position;

7 (b) Meet performance standards in a trainee, intern, understudy,
8 apprentice, or specially funded employe development program; or

9 (c) Complete activities designed to broaden the employe's experience
10 while accomplishing the work of the agency.

11 (4) "New supervisor" means an employe appointed to a position with
12 supervisory or managerial responsibilities as defined in s. 111.81 (19) and
13 (20), Stats., who has not previously attained permanent status in a supervisory
14 or managerial position in the classified service.

15 (5) "Personal development training and educational activities" means those
16 activities which an employe chooses to undertake to gain skills, knowledge or
17 experience for self-improvement and which are not directly related to the
18 employe's current position or recognized by the agency as career-related.

19 (6) "Supervisory development program" means a formal, structured program
20 designed to provide supervisors and managers with the skills, knowledge and
21 experience needed to perform effectively in supervisory or managerial
22 positions.

23 ER 44.03 BASIC SUPERVISORY DEVELOPMENT.

24 (1) PURPOSE. Recognizing that supervisors represent a key link between
25 agency goals and agency action and that the behavior and attitudes of
26 supervisors are of fundamental importance to employe relations, s. 230.046(2),
27 Stats., requires each new supervisor to complete successfully a supervisory
28 development program approved by the secretary.

1 (2) WAIVER OF APPROVED SUPERVISORY DEVELOPMENT PROGRAM.

2 (a) An appointing authority may request the secretary to waive all or
3 a portion of the supervisory development program for any new supervisor or
4 manager who has received equivalent training prior to appointment. The
5 appointing authority requesting the waiver shall provide the secretary with
6 written assurance that the employe's record shows prior supervisory training
7 equivalent to the standards set forth by the secretary.

8 (b) The secretary shall provide the agency with notification of
9 approval or disapproval within 15 working days after receipt of the request.

10 (c) The secretary may delegate to the appointing authority
11 of an agency which maintains an approved supervisory development program the
12 authority to waive all or a portion of the program for a specified employe.

13 (3) PROBATIONARY PERIOD WAIVER. For provisions regarding waiver of a
14 probationary period prior to completion of basic supervisory development
15 training, see s. 230.046(2), Stats.

16 ER 44.04 UNDERSTUDY PROGRAM.

17 (1) PURPOSE. To provide continuity in provision of service, the secretary
18 may establish an understudy program for a selected position so that an employe
19 may participate in relevant duties before functioning independently.

20 (2) ESTABLISHMENT. (a) An agency desiring to appoint an employe under
21 the understudy program shall request approval from the secretary prior to
22 initiation of the recruitment process under s. 230.14, Stats.

23 (b) A person may be appointed to serve as an understudy in a position
24 having duties in addition to the understudy functions or in a position
25 specified solely for understudy, but in no case shall a position specified
26 solely for understudy be filled for more than one year before the objective
27 position vacancy is anticipated.

1 ER 44.05 IN-SERVICE TRAINING INTERNSHIP PROGRAM.

2 (1) PURPOSE. In order to implement the state's commitment to a
3 responsible, highly qualified staff, a training internship program for positions
4 shall be established by the secretary to give training in public service
5 administration, to improve opportunities for career progression, or to meet
6 agencies' affirmative action goals.

7 (2) ESTABLISHMENT. (a) In-service training internships may be
8 established by agencies for a period not to exceed 3 years under the direct
9 supervision of an experienced employe in a managerial position.

10 (b) Each training internship shall be approved by the secretary.

11 (c) A comprehensive training plan shall be developed for each
12 training internship. The plan shall include provisions for:

13 1. Establishing development objectives against which the intern
14 will be evaluated by the supervisor at least every 6 months during the
15 internship; and

16 2. Ensuring that there is a managerial employe responsible for
17 overseeing the intern's progress during the training internship.

18 (3) REPORTING. Agencies shall provide progress and status reports on each
19 internship as required by the secretary.

20 ER 44.06 TUITION AND FEES REFUND PROGRAM. When an employe participates in

21 employe training and educational activities with the prior approval of the
22 appointing authority, the following minimum standards for refund of tuition,
23 necessary fees and time off from work shall apply:

24 (1) JOB-RELATED TRAINING AND EDUCATIONAL ACTIVITIES. Attendance of
25 employes at job-related training and educational activities shall be without
26 loss of pay and shall be at the employer's expense.

1 (2) CAREER-RELATED TRAINING AND EDUCATIONAL ACTIVITIES. Upon successful
2 completion of career-related training and educational activities, the employer
3 may reimburse the employe for tuition, registration fees, laboratory costs,
4 books and required student fees, except those fees paid for student activity,
5 health or athletic events. The reimbursement level shall be agreed upon prior
6 to attendance at the activity. Time off for career-related training and
7 educational activities may be granted without loss of pay or taken as authorized
8 accrued leave or compensatory time off, or may be accommodated through the use
9 of alternative work patterns.

10 (3) PERSONAL DEVELOPMENT TRAINING AND EDUCATIONAL ACTIVITIES. When an
11 employe's objectives are to engage in training or education related to personal
12 development training and educational activities, the employer shall not
13 reimburse the employe for any cost associated with these activities. Time off
14 for personal development training and educational activities may be granted by
15 the appointing authority. If granted, such time off shall be without pay, taken
16 as authorized accrued leave or compensatory time off, or may be accommodated
17 through the use of alternative work patterns.

18 ER 44.07 RECORDS OF TRAINING PROGRAM PARTICIPATION.

19 (1) PURPOSE. To establish a centralized overview of training activities,
20 each agency is required under s. 230.046(4), Stats., to adopt a standardized
21 system for measuring, recording, reporting, and recognizing employe
22 participation in employe development and formal training programs.

23 (2) AGENCY RESPONSIBILITY. (a) Each agency shall maintain training
24 records according to guidelines established by the secretary.

25 (b) Each agency shall provide information on training activities as
26 requested by the secretary.

1 ER 44.08 DELEGATION OF TRAINING. (1) Under s. 230.04(1m), Stats., the
2 secretary may delegate to an agency the authority to initiate training programs.
3 Upon approval from the secretary, an agency may establish a supervisory
4 development program, subject to s. 230.046(3) and (5), Stats.

5 (2) The secretary may authorize an on-site review of an agency's approved
6 training programs to ensure compliance with the guidelines established by the
7 secretary.

1 CHAPTER ER 45

2 EMPLOYE PERFORMANCE EVALUATION

3	ER 45.01	Policy and Purpose	ER 45.04	Agency implementation
4	ER 45.02	Definitions	ER 45.05	Requirements for employes serving probationary
5	ER 45.03	Program requirements		

6 ER 45.01 POLICY AND PURPOSE. Recognizing the importance of identifying,
7 evaluating and developing individual performance to ensure that services to the
8 public are efficiently and effectively provided, the secretary shall, under s.
9 230.37, Stats., and in cooperation with appointing authorities, establish an
10 employe performance evaluation program. The primary purposes of the employe
11 performance evaluation program are to communicate performance standards to
12 employes, to provide observations on performance, and to identify the training and
13 development needed to improve the quality and quantity of job performance and,
14 thereby, increase or maintain expected levels of productivity.

15 ER 45.02 DEFINITIONS. In this chapter:

16 (1) "Employe" means a state employe in the classified service under s.
17 230.08(3), Stats., except for a limited term employe.

18 (2) "Performance evaluation" means a continual process of identifying,
19 measuring and developing job-related employe performance.

20 (3) "Performance standard" means a description of what the job is and the
21 level of performance expected.

1 (4) "Performance summary statement" means a written evaluation of an
2 employe's overall job performance based on the degree to which the employe has
3 achieved performance standards.

4 ER 45.03 PROGRAM REQUIREMENTS. Each state agency shall establish an
5 employe performance evaluation program in accordance with the requirements set
6 forth in this section.

7 (1) The intent and purpose of performance evaluation shall be
8 communicated to all employes.

9 (2) Performance standards shall be established for and communicated to
10 each employe prior to the period for which the employe is being evaluated and
11 serve as a basis for evaluating performance.

12 (3) A formal performance evaluation review shall be conducted with
13 each employe at least every 12 months. This review shall include ongoing informal
14 performance discussions and periodic appraisals to ensure that the established
15 responsibilities and performance standards for the employe's position continue to
16 be appropriate and understood by the employe. The review shall meet the guidelines
17 established by the secretary.

18 (4) The agency shall maintain documentation of the performance evaluation
19 review under sub. (3) in the employe's personnel file.

20 (5) Agencies shall ensure that supervisors, managers and other persons
21 responsible for evaluating employe performance receive orientation and training
22 in the performance evaluation process. The secretary shall review and approve
23 or disapprove the contents of this training.

1 ER 45.04 AGENCY IMPLEMENTATION. Subject to the review and approval of
2 the secretary, each agency shall submit to the secretary:

3 (1) A description of the agency's implementation and administration of a
4 performance evaluation program which meets the requirements set forth in this
5 chapter; and

6 (2) Identification of the use and effect of the information contained in
7 the performance evaluation review documents.

8 ER 45.05 REQUIREMENTS FOR EMPLOYES SERVING PROBATIONARY PERIODS. The
9 requirements set forth in this chapter shall also apply to evaluate the
10 performance of any employe serving a probationary period as defined in
11 ch. ER-Pers 13, except that:

12 (1) An employe serving the first 6 months of a probationary period normally
13 shall receive at least 2 formal performance evaluation reviews prior to the end of
14 the probationary period.

15 (2) An employe serving a probationary period of longer than 6 months normally
16 shall receive at least 2 formal performance evaluation reviews for each additional
17 6 month period or fraction thereof.

18 (3) Where a portion of a permissive probationary period is waived, the
19 employe shall receive at least one formal performance evaluation review during
20 the probationary period.

1 CHAPTER 46

2 GRIEVANCE PROCEDURE

3	ER 46.01	Policy	ER 46.08	Failure to meet time
4	ER 46.02	Definitions		limits
5	ER 46.03	Scope	ER 46.09	Grievant representation
6	ER 46.04	Management rights		
7	ER 46.05	Form and filing of the grievance	ER 46.10	Retaliation prohibited
8	ER 46.06	Procedures and time limits	ER 46.11	Retroactivity
9	ER 46.07	Personnel commission	ER 46.12	Notification of employees
			ER 46.13	Informal discussions

10 ER 46.01 POLICY. (1) Although the state encourages continuing informal
11 communication between employes and management, it recognizes the value of a
12 formal grievance procedure in a sound management program. It is the policy of
13 the state and responsibility of the secretary to ensure that an established
14 written grievance procedure relating to conditions of employment is available to
15 state employes who are not covered by a collective bargaining agreement under
16 subch. V of ch. 111, Stats., for the disposition of employe grievances.

17 (2) This grievance procedure shall ensure that each employe may, without
18 prejudice, express and present a grievance through proper channels with the
19 assurance of timely and thorough consideration.

20 (3) During the formal grievance procedures, the grievant and employer
21 shall make efforts to resolve the grievance by seeking a mutually acceptable
22 solution to the matters grieved.

23 ER 46.02 DEFINITIONS. In this chapter:

24 (1) "Decision" means the written response to a grievance by the employer
25 representative, which includes the rationale for the response.

1 (2) "Employee" means a state employe in the classified civil service
2 under s. 230.08 (3), Stats., except a limited term employe or an employe covered
3 by a collective bargaining agreement under subch. V of ch. 111, Stats.

4 (3) "Employer" means an agency defined under s. 230.03 (3), Stats., in
5 which the employe is or has been employed.

6 (4) "Grievance" means a written complaint by one or more employes, acting
7 as individuals, requesting relief in a matter of concern or dissatisfaction
8 relating to their employment which matter is subject to the control of the
9 employer and within the limitations of this chapter.

10 (5) "Grievant" means an employe who has filed a grievance.

11 (6) "Group grievance" means those grievances which cover more than one
12 employe and which involve like circumstances and facts for the grievants
13 involved.

14 (7) "Relief" means a specific remedy directly benefiting a grievant.

15 (8) "Retaliation" means any action taken by an appointing authority in order
16 to adversely affect the employe's pay, classification level, or condition of
17 employment, when such action is taken because of the employe's exercise of rights
18 under this chapter.

19 (9) "Step" means a level of management authority where a grievance may be
20 pursued.

21 (10) "Work rule" means a written regulation promulgated by the employer
22 within its discretion which regulates the conduct of employes as it affects
23 their employment.

24 ER 46.03 SCOPE. (1) Under this chapter, an employe may grieve issues which
25 affect an individual's ability to perform assigned responsibilities satisfactorily
26 and effectively, including any matter on which the employe alleges that coercion or
27 retaliation has been practiced against the employe except as provided in sub. (2).

- 1 (2) An employe may not use this chapter to grieve:
- 2 (a) A personnel action or decision of the administrator or the secretary
- 3 that is directly appealable to the personnel commission under s. 230.44, Stats.;
- 4 (b) An action delegated by the administrator or by the secretary to an
- 5 appointing authority;
- 6 (c) A demotion, suspension, discharge, removal, layoff or reduction in
- 7 base pay;
- 8 (d) A personnel action after certification which is related to the hiring
- 9 process;
- 10 (e) Denial of hazardous employment benefits under s.230.36 (4), Stats.;
- 11 (f) The reassignment of a career executive employe under s. ER-Pers 30.07
- 12 (1);
- 13 (g) The failure of a supervisor to process a reclassification request.
- 14 (h) An oral reprimand;
- 15 (i) The content of written agency rules and policies; or
- 16 (j) A condition of employment which is a right of the employer as defined
- 17 in s. ER 46.04.

18 ER 46.04 MANAGEMENT RIGHTS. (1) Nothing in this chapter is intended to

19 interfere with the sole right of the employer to carry out its statutory mandate

20 and goals.

21 (2) For the purpose of this chapter, the management rights of the

22 employer include, but are not limited to, the following:

- 23 (a) Utilizing personnel, methods and means to carry out the statutory
- 24 mandate and goals of the agency.
- 25 (b) Determining the size and composition of the work force.
- 26 (c) Managing and directing the employes of the agency.
- 27 (d) Hiring, promoting, transferring, assigning or retaining employes.

- 1 (e) Establishing reasonable work rules.
- 2 (f) Taking disciplinary action for just cause against an employe.
- 3 (g) Laying off employes due to lack of work or funds or organizational
- 4 changes.

5 ER 46.05 FORM AND FILING OF THE GRIEVANCE. (1) Grievances shall be
6 submitted to the designated employer representative on the forms provided by the
7 employer.

8 (2) Only one subject matter shall be covered in any one grievance.

9 (3) A grievance shall describe:

10 (a) The application of a work rule, a written reprimand or the condition
11 of employment which is the subject of the grievance.

12 (b) The facts upon which the grievance is based.

13 (c) The relief sought by the employe.

14 (4) Employes may initiate a group grievance. In such a case, the
15 grievants shall choose one individual grievant to represent the interests of the
16 group. Group grievances shall be so designated at the first step of the
17 grievance procedure and signed by all employes party to the grievance.

18 (5) The employer may consolidate grievances where a reasonable basis for
19 consolidation exists.

20 ER 46.06 PROCEDURES AND TIME LIMITS. (1) All grievances shall be filed
21 with the designated employer representative no later than 30 calendar days from
22 the date the employe first became aware or should have become aware of the
23 matter grieved.

24 (2) Grievances shall be pursued in accordance with the following steps
25 and time limits:

1 (a) First Step. Within 7 calendar days of receipt of the grievance from
2 the employe or representative, the designated employer representative shall meet
3 with the grievant and representative to hear the grievance and deliver a written
4 decision on the grievance form to the grievant and representative.

5 (b) Second Step. 1. If the grievant is dissatisfied with the decision
6 received from the employer representative at the first step under par. a, the
7 decision must be grieved to the next designated employer representative within 7
8 calendar days from receipt of the answer at the first step under par. a.

9 2. The employer representative shall meet with the grievant and
10 representative and attempt to resolve the grievance. A written decision
11 shall be placed on the grievance form following the meeting by the employer
12 representative and delivered to the grievant and representative within 7 calendar
13 days from receipt of the grievance by the employer representative.

14 (c) Third Step. 1. If the grievant is dissatisfied with the decision
15 received from the employer representative at the second step under subd. (b) 2.,
16 the decision must be grieved to the appointing authority or designee within 7
17 calendar days from receipt of the answer at the second step under subd. (b) 2.

18 2. Upon receipt of the grievance at the third step under subd. 1, the
19 designated employer representative shall meet with the grievant and representative
20 to discuss and attempt to resolve the grievance. Following this meeting, the
21 written decision of the agency shall be placed on the grievance form by the
22 appointing authority of the agency or designee and delivered to the grievant and
23 representative within 21 calendar days from receipt of the grievance to the third
24 step under this par.

25 (3) If the last day on which a grievance is to be filed or a decision is
26 be grieved or served is a Saturday, Sunday, or legal holiday, or the day
27 specified in s. 230.35(4) (a)10., Stats., the grievance may be filed or the
28 decision may be grieved or served on the next day which is not a Saturday,
29 Sunday, or legal holiday, or the day specified in s. 230.35(4) (a)10., Stats.

1 (4) A grievance or a decision is timely if received by the employer
2 during normal business hours or postmarked by 12:00 midnight on the due date.

3 (5) The employer and grievant may mutually agree in writing to waive the
4 time limits at any step under sub. (2).

5 (6) The employer and grievant may mutually agree to waive a meeting at any
6 step to facilitate or expedite resolution of the grievance.

7 (7) The employer and grievant may mutually agree in writing to conduct either
8 or both the second and third step meetings under pars.(2) (b) and (c), respectively,
9 by telephone.

10 ER 46.065 AGENCY AMENDMENTS. Each agency shall adopt this procedure or,
11 subject to approval of the secretary, submit an amended procedure if that
12 amendment would more efficiently promote the goals and policies of this chapter.

13 ER 46.07 PERSONNEL COMMISSION. (1) If the grievant is dissatisfied with the
14 decision received from the appointing authority or designee at the third step under
15 s. ER 46.06(2) (c) 2., the decision may be grieved to the commission only if it
16 alleges that the employer abused its discretion in applying subch. II, ch. 230,
17 Stats., or the rules of the administrator promulgated under that subchapter, the
18 rules of the secretary promulgated under ch. 230, Stats., or written agency rules,
19 policies, or procedures, except that decisions involving the following personnel
20 transactions may not be grieved:

21 (a) A written reprimand;

22 (b) A performance evaluation; or

23 (c) The evaluation methodology used by an employer to determine a
24 discretionary pay award, or the amount of the award.

1 (2) Grievances to the commission must be filed within 30 calendar days after
2 service of a decision issued at the third step of the grievance procedure under s.
3 ER 46.06(2) (c) 2., or within 30 calendar days after the last day on which the
4 employer could have served a timely decision, whichever is sooner.

5 ER 46.08 FAILURE TO MEET TIME LIMITS. (1) The employer shall reject any
6 grievances not filed or any decision not grieved in accordance with the time
7 limits set forth in this chapter. Any decision not grieved in a timely manner
8 shall be decided on the basis of the last preceding decision.

9 (2) If the grievance is not answered within the time limits set forth in this
10 chapter, the grievant may proceed to the next step under s. ER 46.06(2) within 7
11 calendar days after the last day on which the grievance could have been timely
12 answered.

13 (3) If the grievance at the third step under s. ER 46.06(2) (c) 2. is not
14 answered within the time limits set forth in this chapter, the grievant may proceed
15 directly to the personnel commission in accordance with s. ER 46.07.

16 ER 46.09 GRIEVANT REPRESENTATION. (1) Each employe may have assistance
17 by a representative of his or her own choice during the grievance procedure,
18 including during informal resolution efforts.

19 (2) The employe and representative, if a state employe, shall be
20 allowed a reasonable period of time during normal work hours, without loss of
21 pay, to investigate, prepare and present the grievance upon reasonable notice, as
22 determined by the employer.

23 (3) If the employer consolidates grievances, those individual grievants
24 and their representatives, if state employes, shall be allowed a reasonable period
25 of time during normal work hours, without loss of pay, to investigate, prepare and
26 present the grievance upon reasonable notice, as determined by the employer.

1 (4) Any expense incurred by the grievant or representative in investigating,
2 preparing or presenting a grievance shall be the responsibility of the grievant or
3 representative.

4

5 ER 46.10 RETALIATION PROHIBITED. No employer may retaliate against a
6 grievant, representative, or witness who participates or is scheduled to
7 participate in proceedings, for using the grievance procedure. This section may be
8 enforced by order of the secretary under s. 230.04(3), Stats.

9 ER 46.11 RETROACTIVITY. Except for administrative errors relating to the
0 payment of wages, no employer may grant any relief retroactive to more than 30
1 calendar days prior to the filing of the grievance at the first step under
2 s. ER 46.06(2) (a).

3 ER 46.12 NOTIFICATION OF EMPLOYEES. The employer shall provide written
4 notice to employes within the agency of the existence and content of the
5 grievance procedure and any changes thereto.

6 ER 46.13 INFORMAL DISCUSSIONS. Nothing in this chapter precludes an
7 employe from informally discussing with the employer any matter of concern,
8 whether grievable or not.

1 CHAPTER ER 47

2 TEMPORARY INTERCHANGE

3	ER 47.01	Policy	ER 47.06	State, agency or
4	ER 47.02	Interchange agreement		subdivision as receiving
5	ER 47.03	Eligibility for interchange		agency
6	ER 47.04	Duration of interchange	ER 47.07	Supplemental pay and
7	ER 47.05	State, agency or sub-		benefits
8		division as sending agency	ER 47.08	Approval

9 ER 47.01 POLICY . The temporary interchange of employes between and among
.0 governmental agencies at the same or different levels of government and with
.1 institutions of higher education is authorized by s. 230.047, Stats., to
.2 facilitate the use of the specialized knowledge and experience of skilled
.3 people to address state and local problems, improve the delivery of government
.4 services, enhance the career development of government employes, strengthen
.5 intergovernmental understanding, and increase the capacity of personnel
.6 resources.

7 ER 47.02 INTERCHANGE AGREEMENT. (1) An interchange assignment may begin
.8 only after a written agreement has been signed by the parties and approved by the
.9 secretary under s. ER 47.08. The parties are the appointing authorities of the
0 sending and receiving agencies, as defined in s. 230.047(2), Stats., and the
1 employe concerned.

2 (2) The written agreement shall specify that the employe is assigned "on
3 detail" to the receiving agency but remains an employe of the sending agency.

1 ER 47.03 ELIGIBILITY FOR INTERCHANGE. All employes in the classified and
2 unclassified service are eligible for interchange except those persons in the
3 classified service who do not have permanent status in class.

4 ER 47.04 DURATION OF INTERCHANGE. (1) Interchange assignments shall be
5 temporary in nature and shall not exceed one year.

6 (2) The secretary may approve an extension for one additional year upon
7 agreement of the parties if an urgent need to extend an interchange exists and
8 is demonstrated. The total duration of the interchange assignment may not
9 exceed 2 years.

10 ER 47.05 STATE OR AGENCY OR SUBDIVISION AS SENDING AGENCY. (1) When the
11 state of Wisconsin, or any agency or subdivision thereof, is the sending agency,
12 the appointing authority of the sending agency shall:

13 (a) Arrange for the employe to remain on the agency's payroll and continue
14 to be covered by the appropriate statutory or contractual provisions relating to
15 pay and employe benefits.

16 (b) Specify in the written agreement that:

17 1. The employe shall receive all applicable intervening pay adjustments
18 for which the employe is eligible including, but not limited to: adjustments
19 applied to the pay schedule and range to which the employe's class is assigned,
20 length of service payments, discretionary pay adjustments, or other forms of
21 within range pay adjustments;

22 2. The sending agency may not pay the travel expenses of the employe in
23 connection with an assignment at the receiving agency and the receiving
24 agency shall reimburse the employe at the rate provided in the state's
25 negotiated collective bargaining agreement or under s. 20.916, Stats., whichever
26 is appropriate;

1 3. The receiving agency may provide specified maintenance allowances for
2 the employe assigned to it "on detail." These allowances may include, but are
3 not limited to: the maintenance of a separate residence or costs associated
4 with periodic travel to the employe's place of permanent residence; and

5 4. The employe remains subject to ch. ER-Pers 24, the code of ethics, or
6 other appropriate code of ethics specified in subch. III of ch. 19, Stats.

7 (2) The appointing authority writing the agreement may provide for the
8 receiving agency to reimburse the sending agency for all or part of the salary
9 and employe benefit expenditures incurred during the period of assignment.

10 (3) A classified state employe during the period of assignment is eligible to
11 compete in promotional examinations as if the employe had not entered into an
12 interchange agreement. The assigned employe's position may not be reallocated
13 under s. ER-Pers 3.01(2) (f) or (g), or reclassified under s. ER-Pers 3.01(3) nor
14 may the employe be regraded accordingly.

15 ER 47.06 STATE OR AGENCY OR SUBDIVISION AS RECEIVING AGENCY. When the
16 state of Wisconsin, or any agency or subdivision thereof, is the receiving
17 agency, the appointing authority of the receiving agency shall specify in the
18 written agreement:

19 (1) Any salary or employe benefit costs which the receiving agency is
20 obligated to provide as reimbursement to the sending agency;

21 (2) Any separate expense reimbursement the receiving agency will provide,
22 such as moving or temporary lodging under s. 20.917, Stats., or travel expenses
23 under s. 230.047(7), Stats.; and

24 (3) The fact that the employe is subject to the provisions of ch. ER-Pers
25 24, the code of ethics, or other appropriate code of ethics specified in subch.
26 III of ch. 19, Stats.

1 ER 47.07 SUPPLEMENTAL PAY AND BENEFITS. A receiving agency other than a
2 receiving agency of this state may provide supplemental pay and benefits to the
3 employe for the duration of the interchange. Such supplemental pay and benefits
4 may be paid by the receiving agency to the employe, or may be paid by the
5 sending agency from funds supplied by the receiving agency, provided the payment
6 is separate from pay and benefits under statutory or contractual provisions.

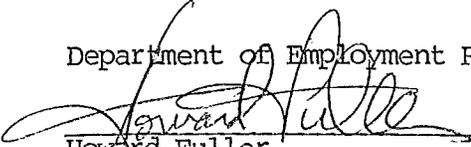
7 ER 47.08 APPROVAL. Any interchange agreement negotiated under this
8 chapter shall be subject to the approval of the secretary.

9 SECTION 2. Chapters Pers 4, Pers 5, Pers 20, Pers 25 and Pers 31 and section
10 Pers 30.12 are repealed.

11 SECTION 3. EFFECTIVE DATE.

12 The rules and repeals contained in this order shall take effect as provided in
s. 227.026(1) (intro.), Stats.

Dated: January 16, 1984

Department of Employment Relations

Howard Fuller
Secretary